

IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE DISTRICT OF SOUTH CAROLINA

ROBERT KEITH KAY, # 275356,	)	
	)	Civil Action No. 9:05-3525-TLW
Petitioner,	)	
	)	<b><u>ORDER</u></b>
vs.	)	
	)	
OSCAR FAULKENBERRY, Warden of	)	
Kershaw Correctional Institute; and	)	
HENRY McMASTER, Attorney General	)	
of South Carolina,	)	
	)	
Respondents.	)	
	)	

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Petitioner brought this action for habeas relief pursuant to 28 U.S.C. § 2254. The matter is before the Court for review of the Report and Recommendation (Report) of the United States Magistrate Judge suggesting that this action be dismissed for lack of prosecution in light of the fact that Petitioner failed to respond to Respondents' motion for summary judgment after being specifically advised of the repercussions of such a failure. The Report is made in accordance with 28 U.S.C. § 636(b)(1)(B) and Local Civil Rule 73.02(B)(2)(c), D.S.C.

The Magistrate Judge makes only a recommendation to this Court. The responsibility to make a final determination remains with the Court. See Mathews v. Weber, 423 U.S. 261, 270 (1976). The Court is charged with making a de novo determination of those portions of the Report to which specific objection is made, and the Court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge or recommit the matter with instructions. See 28 U.S.C. § 636(b)(1).

The Magistrate Judge filed his Report on May 19, 2006. Plaintiff failed to file objections. In the absence of objections, the Court is not required to give any explanation for adopting the

recommendation. Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983). Moreover, a failure to object waives appellate review. Wright v. Collins, 766 F.2d 841, 845-46 (4th Cir. 1985).

After a thorough review of the Report and the record in this case pursuant to the standards set forth above, the Court adopts the Report and incorporates it herein. Therefore, it is the judgment of this Court that this action be **DISMISSED** for lack of prosecution pursuant to Rule 41(b), Fed.R.Civ.P.

**IT IS SO ORDERED.**

s/ Terry L. Wooten  
TERRY L. WOOTEN  
UNITED STATES DISTRICT JUDGE

September 7, 2006  
Florence, South Carolina

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**NOTICE OF RIGHT TO APPEAL**

Petitioner is hereby notified of the right to appeal this Order within thirty (30) days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.